

**ASSEMBLY BILL**

**No. 388**

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**Introduced by Assembly Member Miller**

February 23, 2009

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An act to amend Section 538e of the Penal Code, relating to firefighting uniforms.

LEGISLATIVE COUNSEL'S DIGEST

AB 388, as introduced, Miller. Firefighting uniforms.

Existing law provides that any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

This bill would require, subject to exceptions, that vendors of firefighting uniforms verify that a person purchasing a uniform identifying a firefighting agency is an employee of the agency identified on the uniform, as specified. The bill would provide that violation of these provisions would be a misdemeanor, punishable by a fine of not more than \$1,000.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 538e of the Penal Code is amended to  
2 read:

3 538e. (a) Any person, other than an officer or member of a  
4 fire department, who willfully wears, exhibits, or uses the  
5 authorized uniform, insignia, emblem, device, label, certificate,  
6 card, or writing of an officer or member of a fire department or a  
7 deputy state fire marshal, with the intent of fraudulently  
8 impersonating an officer or member of a fire department or the  
9 Office of the State Fire Marshal, or of fraudulently inducing the  
10 belief that he or she is an officer or member of a fire department  
11 or the Office of the State Fire Marshal, is guilty of a misdemeanor.

12 (b) (1) Any person, other than the one who by law is given the  
13 authority of an officer or member of a fire department, or a deputy  
14 state fire marshal, who willfully wears, exhibits, or uses the badge  
15 of a fire department or the Office of the State Fire Marshal with  
16 the intent of fraudulently impersonating an officer, or member of  
17 a fire department, or a deputy state fire marshal, or of fraudulently  
18 inducing the belief that he or she is an officer or member of a fire  
19 department, or a deputy state fire marshal, is guilty of a  
20 misdemeanor punishable by imprisonment in a county jail not to  
21 exceed one year, by a fine not to exceed two thousand dollars  
22 (\$2,000), or by both that imprisonment and fine.

23 (2) Any person who willfully wears or uses any badge that  
24 falsely purports to be authorized for the use of one who by law is  
25 given the authority of an officer or member of a fire department,  
26 or a deputy state fire marshal, or which so resembles the authorized  
27 badge of an officer or member of a fire department, or a deputy  
28 state fire marshal as would deceive any ordinary reasonable person  
29 into believing that it is authorized for the use of one who by law  
30 is given the authority of an officer or member of a fire department  
31 or a deputy state fire marshal, for the purpose of fraudulently  
32 impersonating an officer or member of a fire department, or a  
33 deputy state fire marshal, or of fraudulently inducing the belief

1 that he or she is an officer or member of a fire department, or a  
2 deputy state fire marshal, is guilty of a misdemeanor punishable  
3 by imprisonment in a county jail not to exceed one year, by a fine  
4 not to exceed two thousand dollars (\$2,000), or by both that  
5 imprisonment and fine.

6 (c) Any person who willfully wears, exhibits, or uses, or who  
7 willfully makes, sells, loans, gives, or transfers to another, any  
8 badge, insignia, emblem, device, or any label, certificate, card, or  
9 writing, which falsely purports to be authorized for the use of one  
10 who by law is given the authority of an officer, or member of a  
11 fire department or a deputy state fire marshal, or which so  
12 resembles the authorized badge, insignia, emblem, device, label,  
13 certificate, card, or writing of an officer or member of a fire  
14 department or a deputy state fire marshal as would deceive an  
15 ordinary reasonable person into believing that it is authorized for  
16 use by an officer or member of a fire department or a deputy state  
17 fire marshal, is guilty of a misdemeanor, except that any person  
18 who makes or sells any badge under the circumstances described  
19 in this subdivision is guilty of a misdemeanor punishable by a fine  
20 not to exceed fifteen thousand dollars (\$15,000).

21 (d) Any person who, for the purpose of selling, leasing or  
22 otherwise disposing of merchandise, supplies or equipment used  
23 in fire prevention or suppression, falsely represents, in any manner  
24 whatsoever, to any other person that he or she is a fire marshal,  
25 fire inspector or member of a fire department, or that he or she has  
26 the approval, endorsement or authorization of any fire marshal,  
27 fire inspector or fire department, or member thereof, is guilty of  
28 a misdemeanor.

29 (e) (1) *Vendors of uniforms shall verify that a person*  
30 *purchasing a uniform identifying a firefighting agency is an*  
31 *employee of the agency identified on the uniform. Presentation*  
32 *and examination of a valid identification card with a picture of*  
33 *the person purchasing the uniform and identification, on the*  
34 *letterhead of the firefighting agency, of the person buying the*  
35 *uniform as an employee of the agency identified on the uniform*  
36 *shall be sufficient verification.*

37 (2) *Any uniform vendor who sells a uniform identifying a*  
38 *firefighting agency, without verifying that the purchaser is an*  
39 *employee of the agency, is guilty of a misdemeanor, punishable*  
40 *by a fine of not more than one thousand dollars (\$1,000).*

1     (3) *This subdivision shall not apply if the uniform is to be used*  
2     *solely as a prop for a motion picture, television, video production,*  
3     *or a theatrical event, and prior written permission has been*  
4     *obtained from the identified firefighting agency.*

5     ~~(e)~~

6     (f) This section shall not apply to either of the following:

7     (1) Use of a badge solely as a prop for a motion picture,  
8     television, or video production, or an entertainment or theatrical  
9     event.

10    (2) A badge supplied by a recognized employee organization  
11    as defined in Section 3501 of the Government Code representing  
12    firefighters or a state or international organization to which it is  
13    affiliated.

14    SEC. 2. No reimbursement is required by this act pursuant to  
15    Section 6 of Article XIII B of the California Constitution because  
16    the only costs that may be incurred by a local agency or school  
17    district will be incurred because this act creates a new crime or  
18    infraction, eliminates a crime or infraction, or changes the penalty  
19    for a crime or infraction, within the meaning of Section 17556 of  
20    the Government Code, or changes the definition of a crime within  
21    the meaning of Section 6 of Article XIII B of the California  
22    Constitution.